



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/504,438	02/15/2000	Azusa Umemoto	003-0639P	7879

7590 03/26/2003

Birch Stewart Kolasch & Birch LLP
P O Box 747
Falls Church, VA 22040-0747

EXAMINER

KNEPPER, DAVID D

ART UNIT	PAPER NUMBER
----------	--------------

2654

DATE MAILED: 03/26/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/504,438

Applicant(s)

UMEMOTO ET AL.

Examiner

David D. Knepper

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3 January 2002 (paper #8).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's correspondence filed on 3 January 2002 (paper #8) has been received and considered. Claims 1-28 are pending.

Claims

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-28 are rejected under 35 U.S.C. § 103 as being unpatentable over Kobayashi (Ref AR, Dynamic Soundscape).

As per claim 1, "information selection . . . represented by sounds" is taught by Kobayashi's browsing audio data, abstract:

"time-controlling a position of each sound independently, and selecting a sound" (suggested with his figures 1 and 2 which shows auditory space and that the user can select a new speaker where the user points);

"information associated with sounds" (taught with his topics, figure 1).

It is noted that Kobayashi does not use the terminology "time-controlling a position of each sound". However, this is interpreted in view of the applicant's disclosure, such as figure 3 which indicates that the topics of the applicant's invention are organized similarly to those of

Kobayashi's figure 1. The only difference seems to be that Kobayashi places the user inside the circle of sound while the applicant's point of reference is outside the circle. The difference is considered obvious because no unexpected results or advantage is apparent.

Claim 2: "controlling volume" is taught on page 194, bottom right column where intensity of the sounds reflects the distance to the cursor.

Claim 3: A circular arrangement is clearly shown in figures 1-2 on page 195.

Claim 4: Commanding a position change to go faster or to return is taught on page 3 with his fast and slow continuous motion, left column.

Claim 5: Selecting louder is taught on page 199, left column – as the user leans his/her head toward a Speaker, the louder the Speaker plays.

Claim 6: selecting a sound of interest is the focus of the entire paper. See, for example, page 199, right column.

Claims 7-8: Displaying images would be obvious in view of commonly implemented computer systems which typically include a display. Kobayashi indicates as much by referring to a digital notebook with visual cues on page 194, right column.

Claims 9 and 1118 are rejected under similar arguments as presented above.

Claim 10: Specified time-order of each sound is shown in figure 1 where different topics start at different times.

Claims 19, 27 and 28: "Presenting a plurality of information as audio information" is clearly shown in his figure 1, page 195 where multiple topics are presented audibly. "Modifying a presentation status of said presentation means according to a predetermined condition" is clearly taught on page 195, figure 2. He teaches upon user's request, a new moving Speaker (c)

Art Unit: 2654

is created where the user points. The original speaker keeps going. It is predetermined that the original Speaker decreases its loudness until the user returns his/her attention to it by indicating the current position of the original Speaker.

Claims 20-26: The presentation sequence in a circle is shown in the figures as previously noted.

Claims 27 and 28: “Modifying a presentation status according to a property of said audio information” is suggested on page 201, left column where he teaches that Approaches developed in AudioStreamer [1], which arouse the user’s attention at prominent event, should be combined with this browsing system. Thus, he teaches that a property of the audio (a significant event) will cause a modification of the presentation based on status of the event.

Remarks

4. The arguments regarding claims 19, 27 and 28 have been addressed by separate grouping of these claims above.

The applicant’s arguments on page 2 of paper 8 fail to distinguish over Kobayashi who clearly teaches plural sounds each of which contain information. The applicant’s claims do not specify and particular manner of selecting sound nor do the claims specify any particular topic or information that would suffice to differentiate over Kobayashi.

Applicant’s argument on pages 3-4 regarding “time-controlling a position of each sound” is also not persuasive. Kobayashi clearly shows in figures 1 and 2 that his topics are positioned in time. Therefore, it is obvious that Kobayashi has to specify the timing for the presentation of each topic. Furthermore, it would have been obvious to re-arrange the topics into any useful

Art Unit: 2654

time order because Kobayashi teaches that he wants to allow more efficient temporal navigation of a single audio recording (page 195, left column). Therefore, the time positions of different topics may be designated in any desired order. Kobayashi's only limitation is that they be distinguishable – he does not specify that the order. To the contrary, the user may make a selection at any time.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. **Any response to this action should be mailed to:**

Box AF
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

TC2600 Fax Center
(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

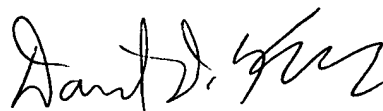
Art Unit: 2654

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Knepper whose telephone number is (703) 305-9644.

The examiner can normally be reached on Monday-Thursday from 07:30 a.m.-6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold, can be reached on (703) 305-4379.

Any inquiry of a general nature or relating to the status of this application should be directed to customer service whose telephone number is (703) 306-0377.



David D. Knepper
Primary Examiner
Art Unit 2654
March 24, 2003